**THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR**

**CRP NOs. 2811 and 4266 OF 2001**

Date of Judgment: 19.7.2011

Between:

CRP NO. 2811 OF 2011

The Temple of Sri Bhramaramba Devi

…Petitioner

and

Madavaram Subbaramaiah (died) and others

..Respondents

and

CRP NO. 4266 OF 2011

Madavaram Venkatasubbaiah and another

…Petitioners

and

The Temple of Sri Bhramaramba Devi

..Respondent

**THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR**

**CRP NOs. 2811 and 4266 OF 2001**

COMMON ORDER:

CRP No. 4266 of 2001 is filed by the Archakas

against the first respondent-temple and CRP No. 2811 of 2001 is filed by the Temple against the Archakas. Both the revision petitions question the order of executing court dated 4.4.2001 in EP No. 22 of 1995 on the file of the Principal District Judge, Kurnool.

The Archakas filed the aforesaid execution petition seeking to execute the decree in OS No. 2 of 1975 dated 9.12.1977. Under the said decree the Archakas were held entitled to 1/16$^{th}$ share in Abhishjekam ticket collection, 0-04 ½ pie share in Mundamani ticket collections and half share in ticket collections of Kunkumarchana, Vasthralankranam, Balipuja, Puttuventrukalu, Vivaham, Upanayanam, Gandadeepam, Mangalaharathi, Darpanaseva and Mahanaivdyam. The present execution petition was filed to the extent of not granting the relief as per the decree granted with respect to Mahaharathi and Paditharam. As per the decree holders, the claim in execution petition was substantiated by a memo of calculations filed by them and counter calculations were also filed by the judgment debtor, the temple. The claims made by the decree holders as per the decree are required to be adjusted with reference to the amounts received by them so far and there is a vast difference in the amount claimed by the decree holders and the calculations of the judgment debtor. The court below, however, under the impugned order compared the memos of calculations of either side and gave a finding

that the Archakas are entitled to Rs.3,57,750-75 ps. Both the parties being aggrieved by the said impugned order, filed these revision petitions.

Heard learned counsel for the parties and it is apparent that the order passed by the executing court contains several mistakes as detailed memos of calculations filed by both sides were not considered in the light of the submissions which both sides had made before it. The deductible amount, according to the decree holders, is not Rs.17,36,771-31 ps. as found by the court below and as such there is any amount of discrepancy in the contentions of both sides recorded in the order of the executing court. In the circumstances, both sides prayed for an opportunity to file fresh calculations with a further opportunity before the court below to substantiate the said calculations so that the court below would pass a comprehensive order in the light of the contentions of either side.

In view of the said submissions the impugned order in each of the revision petitions is set aside and EP No. 22 of 1995 is restored back to the executing court with liberty to the decree holders as well as the judgment debtor to file fresh memos of calculations before the executing court duly accounting for amounts paid or received in pursuance of the decree and both sides shall also file written submissions to substantiate the calculations. On consideration of the same, the court below shall hear both

sides and pass appropriate orders in EP.

Both the revision petitions are allowed accordingly. No costs.

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VILAS V. AFZULPURKAR, J

Dt. 19.7.2011
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